



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0401; FRL-9305-01-R4]

Air Plan Approval; Georgia; Emissions Statements Requirements for the 2015 8-Hour Ozone Standard Atlanta Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions submitted by the State of Georgia through the Georgia Environmental Protection Division (GA EPD) on July 2, 2020, and November 4, 2021. Both submittals address the emissions statements requirements for the 2015 8-hour ozone national ambient air quality standards (NAAQS) for the Atlanta, Georgia 2015 8-hour ozone nonattainment area (hereinafter referred to as the “Atlanta Area”). These requirements apply to all ozone nonattainment areas. The Atlanta Area is comprised of seven counties in and around metropolitan Atlanta (Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry). This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2020-0401 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2015, EPA promulgated a revised 8-hour primary and secondary ozone NAAQS, strengthening both from 0.075 parts per million (ppm) to 0.070 ppm (the 2015 8-hour Ozone NAAQS). *See* 80 FR 65292 (October 26, 2015). The 2015 8-hour ozone NAAQS is set at 0.070 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years. Under EPA's regulations at 40 CFR part 50, the 2015 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.070 ppm. *See* 40 CFR 50.19. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percentage of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined using Appendix U of part 50.

Upon promulgation of a new or revised ozone NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. On April 30, 2018, EPA designated a 7-county area in and around metropolitan Atlanta as a marginal ozone nonattainment area for the 2015 8-hour ozone NAAQS.¹ The Atlanta Area was designated nonattainment for the 2015 8-hour ozone NAAQS on April 30, 2018 (effective August 3, 2018) using 2014–2016 ambient air quality data. *See* 83 FR 25776 (June 4, 2018). On December 6, 2018, EPA finalized a rule titled “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements” (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS.² *See* 83 FR 62998 (December 6, 2018); 40 CFR part 51, Subpart CC. This rule establishes nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA, including an attainment date of August 3, 2021, three years after the August 3, 2018, designation effective date, for areas classified as marginal for the 2015 8-hour ozone NAAQS. Based on the nonattainment designation, Georgia was required to develop a SIP revision addressing certain CAA requirements for the Atlanta Area, including, pursuant to CAA section 182(a)(3)(B), a SIP revision addressing the emissions statements requirements.

Ground level ozone is not emitted directly into the air but is created by chemical reactions between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC.

¹ The nonattainment area for the 2015 8-hour ozone standard consists of the following counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry.

² The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2015 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress, reasonably available control technology, reasonably available control measures, major nonattainment new source review, emission inventories, and the timing of SIP submissions and compliance with emission control measures in the SIP.

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas to submit a SIP revision requiring annual emissions statements to be submitted to the state by the owner or operator of each NO_x and VOC stationary source. However, a state may waive the emissions statements requirements for any class or category of stationary sources which emit less than 25 tons per year (tpy) of VOC or NO_x if the state provides an inventory of emissions as required by CAA section 182 that accounts for emissions from those sources. *See* CAA section 182(a)(3)(B)(ii). The first statement is due three years from the area's nonattainment designation, and subsequent statements are due at least annually thereafter.

On July 2, 2020, Georgia submitted a SIP revision to address the emissions statements requirements related to the 2015 8-hour ozone NAAQS for the Atlanta Area.³ On June 28, 2021, to correct a deficiency in the July 2, 2020, submittal, GA EPD submitted a draft SIP revision supplementing that SIP submittal along with a parallel processing request.⁴ Subsequently, on November 4, 2021, Georgia submitted the draft June 28, 2021, SIP submittal in final form, thus negating the need for EPA to parallel process the draft June 28, 2021, SIP submittal. EPA is proposing to approve the July 2, 2020, SIP submittal as updated by the November 4, 2021, SIP submittal, as meeting the requirements of section 182(a)(3)(B) of the CAA and associated federal regulations. EPA's analysis of these SIP revisions and how they address the emissions statements requirements is discussed in the analysis of state's submittal section of this notice.

II. Analysis of State's Submittal

As discussed above, section 182(a)(3)(B) of the CAA requires states to submit a SIP revision requiring the owner or operator of each NO_x and VOC stationary source located in an

³ In the July 2, 2020, SIP revision, GA EPD submitted a certification that existing Georgia rules satisfy the permit program requirements in section 172(c)(5) and section 173 of the CAA. GA EPD also provided an emissions inventory to satisfy the requirements in section 182(a)(1) of the CAA. EPA will take action on these SIP revisions in separate rulemakings.

⁴ Georgia's July 2, 2020, SIP revision included a request for conditional approval regarding the emissions statements requirements. Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. Georgia's November 4, 2021, SIP revision supplements the July 2, 2020, submittal described later in this section and renders the conditional approval request moot as discussed in section II.

ozone nonattainment area to submit to the state annual emissions statements. The first statement is due three years from the area's nonattainment designation, and subsequent statements are due at least annually thereafter.

In 1996, EPA incorporated Georgia Rule 391-3-1-.02(6)(a)4, *Emissions Statements*, into the SIP. *See* 61 FR 3819 (February 2, 1996). At that time, this regulation applied to stationary sources within Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale Counties. Georgia subsequently amended the regulation to, among other things, include Bartow and Newton Counties thereby covering the entire Atlanta Area. EPA incorporated these amendments into the SIP in 2009. *See* 74 FR 62249 (November 27, 2009). In Georgia's July 2, 2020, SIP revision, Georgia certified that this SIP-approved regulation meets the requirements of CAA Section 182(a)(3)(B) for the Area.⁵ Georgia's SIP-approved regulation at 391-3-1-.02(6)(a)4(iii) states that the emissions statements requirements in 391-3-1-.02(6)(a)4 apply to all stationary sources of nitrogen oxides or volatile organic compounds which emit more than 25 tons per calendar of either pollutant and are located in Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, or Walton counties. Pursuant to section 182(a)(3)(B), however, emissions statements are required for all sources that emit 25 tons per year or more of either pollutant if the waiver criteria are met. Therefore, Georgia requested conditional approval of its July 2, 2020, SIP revision and committed to satisfy section 182(a)(3)(B) for the 2015 8-hour ozone NAAQS by revising Georgia Rule 391-3-1-.02(6)(a)4(iii) so that emissions reporting is also required for sources that emit exactly 25 tons of VOC or NO_x per calendar year. The State committed to adopt this rule revision no later than one year after EPA's conditional approval of Georgia's July 2, 2020, SIP revision.

⁵ As discussed in the preamble to the SIP Requirements Rule, a state may rely on emissions statement rules in force and approved by EPA for the 2015 8-hour ozone NAAQS provided that the rules remain adequate and cover all portions of the 2015 ozone NAAQS nonattainment areas. *See* 83 FR 62998 (December 6, 2018).

On June 28, 2021, Georgia submitted a draft SIP revision for parallel processing to supplement the July 2, 2020 SIP revision. The June 28, 2021, submittal includes the new draft of Georgia Rule 391-3-1-.02(6)(a)4(iii) and states that the aforementioned change to the rule was presented to the Georgia Department of Natural Resources Board of Directors (DNR Board) for adoption at its September 28, 2021, meeting, along with changes to the rule to reflect only the counties comprising the Atlanta Area. The submittal says that the changes will be submitted to EPA as a SIP revision. The draft June 28, 2021, SIP revision was submitted in final form on November 4, 2021.

As allowed by CAA section 182(a)(3)(B)(ii), Georgia waived the emissions statements requirement for stationary sources emitting less than 25 tpy of NO_x or VOC because the State included these emissions in an emissions inventory it submitted to EPA pursuant to CAA section 182(a)(1) for the Atlanta Area. CAA section 182(a)(3)(B)(ii) allows the state to waive the application of emissions statements requirements to any class or category of stationary sources which emit less than 25 tons per year of VOC or NO_x if the State, in its submissions under section 182(a)(1) or 182(a)(3)(A),⁶ provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.

Pursuant to CAA Section 182(a)(1), Georgia is required to submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in CAA section 172(c)(3), in accordance with guidance provided by the Administrator. CAA Section 172(c)(3) states, “Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.” Georgia’s July 2, 2020, SIP revision includes an emissions inventory submitted pursuant to CAA section 182(a)(1) and states that it was prepared consistent with 83

⁶ CAA section 182(a)(3)(A) contains a triennial emissions inventory requirement.

FR 62998, “Implementation of the 2015 National Ambient Air Quality Standards for Ozone:

Nonattainment Area State Implementation Plan Requirements,” and 40 CFR Part 51.1315.”

Stationary sources emitting less than 25 tpy of NO_x or VOC are included in Georgia’s inventory in accordance with CAA section 182(a)(3)(B)(ii).

The emissions inventory that GA EPD provided in its submission to satisfy the requirements in section 182(a)(1) of the CAA is included in the docket for this rulemaking. EPA has proposed to approve the emissions inventory portion of the July 2, 2020, SIP submission in a separate rulemaking. Given the waiver criteria in section 182(a)(3)(B)(ii), EPA cannot approve the emissions statement portion of the July 2, 2020, SIP submission as proposed herein unless EPA finalizes approval of the emissions inventory portion of the submission in that separate rulemaking.

EPA has preliminarily determined that Georgia’s revised emissions statements regulation meets the requirements under CAA section 182(a)(3)(B) and the SIP Requirements Rule for the 2015 8-hour ozone NAAQS. Therefore, a conditional approval of the July 2, 2020, SIP submittal is no longer necessary. Accordingly, EPA is proposing to approve the July 2, 2020, SIP submittal, as updated by the November 4, 2021, SIP submittal.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Rule 391-3-1-.02(6)(a)4(iii), state-effective October 25, 2021. EPA has made and will continue to make these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the July 2, 2020, SIP revision, as updated by the November 4, 2021, SIP submittal, related to the emissions statements requirements for the 2015 8-hour ozone NAAQS for the Atlanta Area. EPA has preliminarily determined that Georgia's SIP revisions requesting approval meet the requirements of CAA section 182(a)(3)(B).⁷ EPA proposes to find that the aforementioned submissions meet the requirements of sections 110 and 182 of the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

⁷ As discussed in section II, EPA cannot approve the emissions statement portion of the July 2, 2020, SIP submission as proposed herein unless EPA finalizes approval of the emissions inventory portion of the submission.

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 26, 2021.

John Blevins,
Acting Regional Administrator,
Region 4.

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